

CHAPTER 11. SEEDS
PART I. REGULATION OF SALES

§1431. Terms defined

As used in this Chapter, the following terms have the meanings given:

- (1) "Advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Chapter.
- (2) "Agricultural seed" means any lawn, flower, oil, grass, forage, cereal, fiber, or other kinds of crop seed sold, offered for sale, or used in Louisiana for agricultural purposes, and any combinations of such seeds.
- (3) "Certified seeds", "registered seeds", and "foundation seeds" are seeds which have been inspected and sampled during their period of growth and preparation for market by the commissioner, or by the inspection official of the state in which the seeds were grown, and which have been found to conform to the regulations issued by the commission under this Chapter.
- (4) "Commission" means the Seed Commission.
- (5) "Commissioner" means the commissioner of agriculture and forestry.
- (6) "Crop" means any cultivated plants that produce agricultural produce such as grains, seeds, fruits, vegetables, or flowers.
- (7) "Dormant" means viable seed, excluding hard seed, which fails to germinate when provided the specified germination conditions for the kind of seed in question.
- (8) "Farm" means a piece or tract of land on which an agricultural, vegetable, or flower crop is grown or allowed to grow.
- (9) "Flower seeds" are seeds of all plants grown for ornamental purposes for domestic or commercial use.
- (10) "Germination" is the percentage of seeds capable of producing normal seedlings under ordinarily favorable conditions. Broken, weak, malformed, and obviously abnormal seedlings are not considered as having germinated.
- (11) "Hard seeds" are the percentage of seeds which, because of hardness or impermeability, do not absorb moisture or germinate under prescribed tests but remain hard during the period prescribed for germination of the kind of seed concerned.

(12) "Hybrid" is one or more crosses of inbreds of the same kind of seed; for example, hybrid corn.

(13) "Inert matter" is all matter not seeds including pieces of broken and damaged seeds one-half or less than the original size, sterile florets, fungus bodies, stones, and all matter considered as inert by the Association of Official Seed Analysts Rules for Testing Seeds.

(14) "Kind" is one or more related species which singly or collectively is known by one common name; for example, corn, beans, lespedeza.

(15) "Labeling" includes all labels and other written, printed, or graphic representations accompanying and pertaining to any seed, whether in bulk or containers. Labeling includes invoices and other bills of shipment when sold in bulk. The labels shall be uniform in accordance with the standards adopted by the Association of Southern Seed Control Officials.

(16) "Lot of seed" is a definite quantity of seeds identified by a lot number or mark, every portion or bag of which is uniform, within permitted tolerances, relative to the factors which appear in the labeling.

(17) "Mixed seeds" are seeds of more than one kind or variety when each kind or variety is present in excess of five percent of the whole.

(18) "Noxious weeds" are weeds which are highly destructive and difficult to control by good cultural practices and the use of herbicides.

(19) "Origin" means place, state, or foreign country where grown.

(20) "Other crop seeds" are the seeds of all kinds or varieties not of the kind or variety declared on the label.

(21) "Person" means any individual, firm, corporation, association, or partnership.

(22) "Prohibited noxious weed seeds" means any weed seeds which are prohibited from being present in agricultural, vegetable, flower, tree, or shrub seed.

(23) "Pure seeds" are all seeds of the kind and variety under consideration, whether shriveled, cracked, or otherwise injured, and pieces of seeds larger than one-half the original size.

(24) "Retail seedsman" means any person who sells seed at retail directly to the consumer either in quantities of not less than one pound or any quantity including closed containers of less than one pound.

(25) "Seed" is a propagative part of a plant capable of producing a new plant, including but not limited to those parts commonly referred to as seeds, bulbs, roots, tubers, and other propagating stock.

(26) "Stop-sale" is any written or printed notice given by the commissioner of the Louisiana Department of Agriculture and Forestry or his authorized agents, to the person with a lot of seed, directing the person not to sell or offer for sale the seed until the requirements of this Chapter and regulations promulgated hereunder have been complied with and a written release is issued. Such seeds may be released for sale as feed.

(27) "Treated" means that the seed has received an application of a substance or that it has been subjected to a process for which a claim is made.

(28) "Variety" is a subdivision of a kind characterized by growth, plant, fruit, seed, or other characteristic by which it can be differentiated from other seeds of the same kind.

(29) "Vegetable seeds" are seeds of vegetable crops grown in gardens or on truck farms.

(30) "Weed seeds" are seeds of all plants that are considered to be undesirable or troublesome in an area where the plant is not wanted.

Amended by Acts 1954, No. 439, §1; Acts 1975, No. 766, §1; Acts 1977, No. 149, §1; Acts 1978, No. 34, §1; Acts 1988, No. 229, §1; Acts 1990, No. 28, §1; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1432. Seed Commission; creation; members; employment of necessary personnel

A. The Seed Commission is created and shall be composed of the following five members: commissioner of agriculture, director of Louisiana Agricultural Extension Service, director of Louisiana Agricultural Experiment Station, president of Louisiana Seedsmen's Association, and president of Louisiana Farm Bureau Federation, or their designees. Each designee shall have the same rights as the member by whom he or she was designated, including voting rights. The commission shall elect a chairman from among its members.

B. The commission shall employ a director and assistant director who shall be appointed by the commission, subject to the approval of the commissioner. The director and assistant director shall be in the unclassified service. The commissioner is hereby vested with the authority to employ all other personnel necessary to carry into effect the provisions of this Chapter and such rules, regulations, and ordinances as may be adopted by the commission. All employees of the commission shall be under the direction and supervision of the commissioner.

Amended by Acts 1952, No. 272, §1; Acts 1977, No. 149, §2; Acts 1986, No. 474 §1; Acts 1986, No. 447, §1, eff. July 1, 1986; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1433. Powers and duties of seed commission

A. The commission shall:

(1)(a) Make rules and regulations governing the methods of sampling, inspecting, and making analysis tests and examinations of all seeds and other propagating stock;

(b) Establish the standards and tolerances to be allowed in the administration of this Chapter;

(c) Make rules and regulations governing the conditions for growing, harvesting, processing, preparing for market, labeling, distributing, and marketing seeds and propagating stock as certified, registered, or foundation;

(d) Set forth in its rules the minimum requirements of varietal purity and mechanical standards as a condition to sale or distribution as certified, registered, or foundation seeds or other propagating stock;

(e) Make rules and regulations establishing a reasonable schedule of charges to persons for each sample of seed tested by the Louisiana Seed Testing Laboratory, establishing a reasonable fee schedule to be charged for making application for inspection and field inspection for certification of seed, and establishing a reasonable fee schedule to be charged for printing certified tags, provided there shall be no charge for the testing of official samples submitted by duly authorized agricultural inspectors for law enforcement purposes; and

(f) Make all rules and regulations pertaining to the enforcement of this Chapter.

(2) Limit the sale and distribution of seeds for the production of agricultural, vegetable, or flower crops to certified seeds or planting stock when the commission determines that the limitation will best serve the crop industry.

(3) In making rules and regulations, give consideration to the following with respect to each kind of seed or other propagating stock regulated by this Chapter:

(a) The minimum requirements of varietal purity and mechanical standards.

(b) The kind, quality, and estimated amounts to be available for sale in Louisiana during the next succeeding crop season.

(c) The demand in Louisiana.

- (d) The agricultural practices for production in Louisiana as compared with the practice in other states.
- (e) The accepted cultural and trade practices prevailing in other states with respect to offering and displaying for sale, labeling, sampling, and making analyses.
- (f) The general welfare of growers in Louisiana.
- (g) Hold hearings on alleged violations of the provisions of this Chapter or of the rules and regulations adopted pursuant to this Chapter.
- (h) Advise the commissioner on the civil penalties to be imposed or the injunctive or other civil relief to be sought to punish and restrain violations of the provisions of this Chapter or of the rules and regulations adopted pursuant to this Chapter.
- (i) Perform such other advisory functions as the commissioner may assign to the commission.
- (j) Declare plants to be weeds or noxious weeds in all or part of the state and to prohibit, restrict, or regulate the sale, distribution, movement, and use of weed seeds or noxious weed seeds by regulations adopted pursuant to this Chapter.

B. The commission may adopt rules establishing user fees to be charged for all services provided by the commission and establishing regulatory fees to be charged for all regulatory functions performed by the commission. The rules shall be adopted in accordance with the Administrative Procedure Act. The amount of the user fees shall be based on the cost of the services provided. The amount of the regulatory fees shall be based on the cost of the regulatory functions performed.

Amended by Acts 1952, No. 372, §1; Acts 1954, No. 439, §2; Acts 1975, No. 766, §2; Acts 1977, No. 149, §2; Acts 1988, No. 163, §1; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1434. Powers and duties of the commissioner of agriculture

The commissioner shall:

1. Enforce this Chapter and all rules and regulations made and adopted by the commission.
2. Sample, inspect, test, and make analyses of agricultural, vegetable, and flower seeds transported, offered for sale, sold, or distributed in Louisiana for planting purposes; determine whether the seeds are in compliance with this Chapter and with rules and regulations made under this Chapter; and notify promptly the person who transported, distributed, sold, or offered for sale the seeds of any violation.

3. Carry out and enforce the rules and regulations made pertaining to certified, registered, or foundation seeds or planting stock and to the limiting of planting of a crop to certified seed, when such is prescribed.
4. Require reports necessary to administer this Chapter and rules and regulations made under this Chapter.
5. Collect, administer, and disburse the proceeds of the assessment, fees, interest, penalties, and other monies collected pursuant to this Chapter.

Amended by Acts 1977, No. 149, §2; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1435. Authority of the commissioner

The commissioner may:

- (1) Employ agents necessary to enforce this Chapter and the rules and regulations made under this Chapter.
- (2) In order to have access to seeds subject to this Chapter, enter, during regular business hours, any public or private premises where agricultural, vegetable, or flower seeds or other propagating stock is sold, offered for sale, or distributed.
- (3) Issue and enforce a stop-sale notice to the person with a lot of seed or other propagating stock which the commissioner finds, or has good reason to believe, is in violation of this Chapter or the rules and regulations made under this Chapter.
- (4) Establish and maintain a seed laboratory; employ a State seed analyst, other analysts, and other personnel whose work he shall direct and supervise; and incur such other expenses necessary to comply with this Chapter.
- (5) Make purity and germination tests of seeds for persons on request. The analyses shown by this test shall be for the information of the person requesting the test only and shall not be made the basis of the guaranteed analysis of the seeds required by R.S. 3:1436.
- (6) Enter, either directly or through a duly authorized agent, the premises of any person producing, processing, distributing, or selling seeds and examine that person's books, accounts, and records, and obtain any other information necessary, for purposes of enforcing the provisions of this Chapter and the regulations adopted pursuant to this Chapter.
- (7) Seek and obtain injunctive or other civil relief to restrain and prevent violations of this Chapter, or rules and regulations adopted pursuant to this Chapter, or orders and rulings issued by the commissioner pursuant to this Chapter.

(8) Institute civil proceedings to enforce his orders or rulings, collect any assessments, late fees, fines, penalties, or costs due under this Chapter or to otherwise enforce the provisions of this Chapter or rules and regulations adopted pursuant to this Chapter.

Amended by Acts 1977, No. 149, §3; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1436. Labeling of seeds

Each container of agricultural, vegetable, or flower seeds, or other propagating stock, which is sold or offered for sale in Louisiana for planting purposes shall bear thereon or have attached thereto in a conspicuous place a label plainly written or printed in the English language. The label shall give the following information:

(1) For all agricultural, vegetable, and flower seeds treated as defined in this Chapter for which a separate label may be used:

(a) A word or statement indicating that the seed has been treated.

(b) The commonly accepted coined, chemical or abbreviated chemical or generic name of the applied substance or description of the process used.

(c) If the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do not use for food, feed, or oil purposes". The caution for mercurials and similarly toxic substances shall be a poison statement or symbol.

(d) If the seed is treated with an inoculant, the date beyond which the inoculant is not to be considered effective (date of expiration).

(2) On agricultural seeds:

(a) Except as otherwise provided herein, the commonly accepted name of the kind and variety of each agricultural seed component in excess of five percent of the whole, and the percentage of weight of each in the order of its predominance. The provisions of this Subparagraph shall not prohibit the sale of wheat and oat seeds which are labeled "variety not stated" and which meet the other requirements of this Chapter. The commission may adopt rules and regulations governing the sale and labeling of variety not stated wheat and oat seeds. Hybrids shall be labeled as hybrids.

(b) The number or other lot identification.

(c) The origin of the seed. If the origin is not known, that fact shall be stated.

- (d) The percentage by weight of all weed seeds.
 - (e) The name and number per pound of each kind of noxious weed seed.
 - (f) The percentage by weight of crop seeds other than those required to be on the label.
 - (g) The percentage by weight of inert matter.
 - (h) For each named agricultural seed: the percentage of germination, exclusive of hard seed; the percentage of hard seed when present; and the calendar month and year the test was completed to determine such percentages.
 - (i) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.
- (3) On vegetable seeds in containers of more than one pound:
- (a) The name of the kind and variety of the seed.
 - (b) The number or other lot identification.
 - (c) The percentage of germination.
 - (d) The calendar month and year the test to determine the percentages was completed.
 - (e) Name and address of the person who labeled said seed or who sells, offers, or exposes said seed for sale within this state.
 - (f) For seeds which germinate less than the standards established by the commission, the words "Below Standard" printed or written in ink, in not less than eight-point type, on the face of the label in addition to all other information required.
- (4) On vegetable seeds in containers of one pound or less which germinate equal to or above the standards established by the commission under the provisions of R.S. 3:1433(3)(a):
- (a) The name of each kind and variety of seed, and if there are two or more kinds or varieties present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label.
 - (b) The lot number or other lot identification.
 - (c) The name and address of the person who transports, delivers for transportation, sells, offers for sale, or exposes for sale the seed in this state.

(d) The calendar month and year of the germination test.

(5) On vegetable seeds in containers of one pound or less which germinate less than the standards established by the commission under the provisions of R.S. 3:1433(3)(a):

(a) The name of each kind and variety of seed, and if two or more kinds or varieties are present, the percentage of each, and further, that in the case of any such component which is a hybrid seed, it shall be designated as hybrid on the label.

(b) For each named kind and variety of seed, the percentage of germination.

(c) The word "Substandard" in not less than eight-point type.

(d) The lot number or other lot identification.

(e) The calendar month and year the germination tests were completed.

(f) The name and address of the person who transports, delivers for transportation, sells, offers for sale, or exposes for sale the seed in this state.

(6) On every separate package of flower seeds and other propagating stock:

(a) The name of the kind and variety of the seeds.

(b) The lot number or other lot identification.

(c) The year for which the seeds were packed for sale.

(d) The name and address of the person who labels, distributes, offers for sale, exposes for sale, or sells the seed in this state.

(7) On combination mulch, seed, and fertilizer products:

(a) The word "combination" followed by the words "mulch-seed-fertilizer" must appear on the upper thirty percent of the principal display panel. The word "combination" must be the largest and most conspicuous type on the container, equal to or larger than the product name. The words "mulch-seed-fertilizer" shall be no smaller than one-half the size of the word "combination" and in close proximity to the word "combination". These products shall contain a minimum of seventy percent mulch.

(b) Analysis label - Agricultural, lawn, and turf seeds placed in a germination medium, mat, tape, or other device or mixed with mulch shall be labeled as follows:

- (i) Product name.
- (ii) Lot number.
- (iii) Percentage by weight of pure seed of each kind and variety named which may be less than five percent of the whole.
- (iv) Percentage by weight of other crop seeds.
- (v) Percentage by weight of inert matter which shall not be less than seventy percent.
- (vi) Percentage by weight of weed seeds.
- (vii) Name and number of noxious weed seeds per pound, if present.
- (viii) Percentage of germination and hard seed of each kind or kind and variety named and date of test.
- (ix) Name and address of the person who labels the seed.

Amended by Acts 1952, No. 127, §1; Acts 1975, No. 766, §3; Acts 1977, No. 149, §4; Acts 1978, No. 34, §2; Acts 1986, No. 190, §1; Acts 1988, No. 213, §1; Acts 1993, No. 140, §1; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1437. Registration of seed dealers

A. Every person, except persons exempt by R.S. 3:1446, who sells, distributes, or offers or handles for sale agricultural, vegetable, or flower seeds or other propagating stock of one pound or more in weight shall register with the commissioner as a seed dealer. Every seed dealer shall register the number and location of each place of business at which the seeds are sold, distributed, or offered or handled for sale. The commissioner shall issue to the registered seed dealer a license to engage in the business.

B. The commissioner shall issue a license on an annual basis with licenses expiring on the first day of July of each year following the issuance date. The commissioner shall establish the fee for the license. The fee shall be established by rule adopted in accordance with the Administrative Procedure Act. The amount of the fee shall not exceed one hundred dollars.

Amended by Acts 1975, No. 766, §4; Acts 1977, No. 149, §5; Acts 1988, No. 162, §1; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1438. Suspension or revocation of seed dealer license

Any licensee who violates any of the provisions of this Chapter or the regulations adopted under the provisions of this Chapter shall be subject to having his license suspended, revoked, or placed on probation, in addition to any other penalties authorized by this Chapter.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1439. Failure of seed dealer to register; effect

The commissioner may issue a stop-sale order against any seed dealer who fails to comply with R.S. 3:1437.

Acts 2003, No. 175, §1, eff. July 1, 2003.

§1440. Stop-sale order

A stop-sale order shall prohibit further sale, exchange, movement, or distribution of seeds included in the order until the commissioner is satisfied that this Chapter and rules and regulations of the commission have been complied with and the commissioner has issued a written release to the person with such seed. After a stop-sale order is given, the person receiving the stop-sale order shall have fifteen days within which to comply and to obtain a written release of the order. This Section shall not prevent the commissioner from proceeding in accordance with other Sections in this Chapter.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1441. Seizure

When the commissioner issues a stop-sale order to a person with a lot of seed and such person fails to comply with this Chapter or the regulations of the commission, the commissioner shall seize the lot of seed and shall destroy the lot within thirty days, or shall dispose of it in the manner prescribed by the rules and regulations made by the commission.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1442. Repealed by Acts 2003, No. 175, §2, eff. July 1, 2003.

1443. Disclaimer or nonwarranty clause of no effect

The use of a disclaimer or nonwarranty clause in any invoice, advertisement, or label pertaining to seeds shall not exempt a person from the provisions of this Chapter.

Amended by Acts 1977, No. 149, §5.

§1444. Prohibitions

No person shall:

- (1) Sell, offer for sale, transport, or distribute any agricultural, vegetable, or flower seeds unless the seeds have been tested in accordance with the rules and regulations adopted by the Seed Commission. The commission by rule may require information relative to the test to be affixed to the packaging of the seeds.
- (2) Sell, offer for sale, transport, or distribute any agricultural, vegetable or flower seeds which are not labeled in accordance with this Chapter or which have false or misleading labeling.
- (3) Sell, offer for sale, transport, or distribute any agricultural, vegetable, or flower seeds for which there has been false or misleading advertisement.
- (4) Sell, offer for sale, transport, or distribute any agricultural seeds containing noxious weed seeds, subject to tolerances and methods of determinations, in excess of those prescribed under this Chapter.
- (5) Detach, deface, destroy, or use a second time any label provided for in this Chapter or the rules and regulations made by the commission.
- (6) Alter or falsify any seeds, seed labels, seed tests, laboratory reports, records, or other documents to create a misleading impression as to kind, kind of variety, history, quality, or origin of seed.
- (7) Disseminate any false or misleading advertisement concerning agricultural, vegetable, or flower seeds.
- (8) Obstruct in any way any authorized person in the performance of his duties under this Chapter.
- (9) Fail to comply with a "stop-sale" order or to move or otherwise handle or dispose of any lot of seed held under a "stop-sale" order, except with express permission of the commissioner for the purposes specified by him.
- (10) Use relabeling stickers without having both the calendar, month, and year the germination test was completed and the lot number that matches the existing, original lot number.
- (11) Relabel seeds more than one time.

Amended by Acts 1977, No. 149, §5; Acts 1978, No. 34, §1; Acts 1986, No. 190, §1; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1445. Exemptions

A. The provisions of R.S. 3:1436 shall not apply:

(1) To common carriers with respect to seeds transported in the ordinary course of business as a carrier R.S. 3:1436 shall apply to carriers engaged in processing or merchandising seeds subject to the provisions of this Chapter.

(2) To seeds sold from a duly labeled container and taken therefrom in the presence of the purchaser. In such case the container in which the seeds are sold may be unlabeled unless the purchaser requests a label.

(3) To agricultural seeds when grown, sold, and delivered by the producer on his own premises when the growing of crops for reproductive purposes is not the primary farming occupation of the producer. If the seeds are advertised for sale through any medium or if the seeds are delivered by a common carrier, except for the purpose of recleaning, they shall be labeled in accordance with this Chapter.

B. The provisions of R.S. 3:1444 shall not apply:

(1) To seeds not intended for planting purposes.

(2) To seeds in storage in, consigned to, or being transported to seed cleaning or processing establishments for cleaning and processing only. Any labeling or representation which is made with respect to the unclean seeds shall be subject to this Chapter.

(3) To agricultural seeds when grown, sold, and delivered by the producer on his own premises when the growing of crops for reproductive purposes is not the primary farming occupation of the producer. If the seeds are advertised for sale through any medium or if the seeds are delivered by a common carrier, except for the purpose of recleaning, they shall be labeled in accordance with this Chapter.

(4) To seeds which are incorrectly labeled or represented as to kind, variety and origin if the seeds cannot be identified by examination, unless the person responsible for labeling failed to obtain an invoice or grower's declaration giving kind, variety, and origin.

Amended by Acts 1977, No. 149, §5; Acts 1987, No. 167, §1.

§1446. Penalty for violation; procedures for imposition of penalties

A. Whoever violates this Chapter or the rules and regulations made under this Chapter shall be subject to a civil penalty of not more than five hundred dollars for each act of violation and for each day of violation. Each day on which a violation occurs shall be a separate offense.

B. Penalties may be assessed only by a ruling of the commission based upon an adjudicatory hearing held in accordance with the provisions of the Administrative Procedure Act and this Chapter as follows:

(1) The commission shall be convened by the commissioner for the purpose of hearing any alleged violation of this Chapter or any rule and regulation adopted pursuant to this Chapter.

(2) The commissioner shall appoint a hearing officer to preside over the hearing.

(3) The commission shall make an initial determination on the matter. This determination shall be submitted to the commissioner in writing.

(4) The commissioner shall make the final determination on the matter. If the determination of the commissioner differs from the determination of the commission, the commissioner shall issue a written opinion based on the record of the hearing.

Amended by Acts 1977, No. 149, §5; Acts 2003, No. 175, §1, eff. July 1, 2003.

§1447. Secretary of state as agent for service

Any person who is not a resident of or domiciled within the state of Louisiana, and who, having no duly appointed agents for service of process within the state, engages in the business of distributing, selling, or packaging seeds within the state of Louisiana, does by such act appoint the secretary of state as his agent for service of process of any legal document and submits to the jurisdiction of any court within the parish where he engages in that business, as if such person were a citizen of or domiciled within said parish.

Amended by Acts 1977, No. 149, §5.